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DOCKET NO. D-2012-026-1

DELAWARE RIVER BASIN COMMISSION

**Philadelphia Energy Refining and Marketing, LLC
Philadelphia Refinery – Surface Water Withdrawal
City of Philadelphia, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) by Philadelphia Energy Refining and Marketing, LLC (Philadelphia Energy or docket holder) on September 17, 2012, for approval of an existing surface water withdrawal (SWWD) to provide industrial process and cooling water to the Philadelphia Refinery. The Philadelphia Refinery consists of both the Point Breeze and Girard Point facilities, formerly owned by Sunoco, Inc.

The Application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The Philadelphia City Planning Commission has been notified of pending action. A public hearing on this project was held by the DRBC on March 5, 2013.

A. DESCRIPTION

1. **Purpose.** The purpose of this docket is to approve the existing surface water intakes at the Philadelphia Refinery and provide a SWWD allocation for Intakes Nos. PB and GP of up to 202.958 million gallons per month (mgm) and 480.157 mgm, respectively. Additionally, this docket approves a total allocation for both intakes of up to 683.115 mgm. All water withdrawn is to be used for industrial processes and cooling.

2. **Location.** The Philadelphia Refinery and its related intakes are located along the tidal Schuylkill River in Water Quality Zone 4. Specific location information has been withheld for security reasons.

3. **Area Served.** The docket holder's withdrawals will continue to service the Philadelphia Refinery. The service area is outlined on a map entitled SERVICE AREA AND LOCATION MAP FOR GIRARD POINT AND POINT BREEZE PROCESSING AREAS, which was submitted as part of the Application. For the purpose of defining Area Served, the Application is incorporated herein by reference consistent with conditions contained in the DECISION Section of this docket.

4. Physical features.

a. Design criteria. The docket holder shall continue to operate the Philadelphia Refinery and its related intakes. Intake No. PB currently withdrawals up to 202.958 mgm. Intake No. GP currently withdrawals up to 480.157 mgm. The 10-year projected use is expected to remain the same for each intake. This docket approves each of these two existing withdrawals as allocations and limits the total amount of water to 683.115 mgm from both intakes for industrial process and cooling purposes.

b. Facilities. The existing intakes have the following characteristics:

INTAKE NO.	WITHDRAWAL WATER BODY	PUMP CAPACITY (MGD)	7Q10 FLOW AT INTAKE (CFS)	YEAR CONSTRUCTED
PB	Schuylkill River	13.69	246	1961
GP	Schuylkill River	21.60	246	1961

Intakes Nos. PB and GP are metered.

Prior to use at the Philadelphia Refinery, the water is treated through filtration, chlorination, and a softening process by one of two existing water filtration plants on-site.

The project is located in the tidal area of the Schuylkill River and therefore the Commission's *Flood Plain Regulations* do not apply.

c. Other. Water withdrawn from Intake No. PB is used on the Point Breeze portion of the Philadelphia Refinery for industrial process and cooling purposes. Surface water is pre-treated at the Point Breeze Water Filtration Plant (WFP) and process water is then treated at the Point Breeze Industrial Wastewater Treatment Plant (IWTP). The Point Breeze WFP discharges to the IWTP. Discharge from the IWTP is before the Commission for review and approval at this time and is also being heard at the March 5, 2013 Public Hearing under Docket No. D-1969-163-2. The Pennsylvania Department of Environmental Protection (PADEP) is expected to issue National Pollutant Discharge Elimination System (NPDES) Renewal Permit No. PA0012629 shortly.

Water withdrawn from Intake No. GP is used on the Girard Point portion of the Philadelphia Refinery for industrial process and cooling purposes. Surface water is pre-treated at the Girard Point WFP and process water is then treated at the Girard Point IWTP. The Girard Point WFP discharges to the IWTP and it was approved by the Commission via Docket No. D-1969-115-3 on July 11, 2012. The PADEP issued NPDES Permit No. PA0011533 for these discharges on September 21, 2012, effective November 1, 2012.

d. Cost. There are no construction costs associated with these existing withdrawals.

B. FINDINGS

The purpose of this docket is to approve the existing surface water intakes at the Philadelphia Refinery and provide a SWWD allocation for Intakes Nos. PB and GP of up to 202.958 mgm and 480.157 mgm, respectively. Additionally, this docket approves a total allocation for both intakes of up to 683.115 mgm. All water withdrawn is to be used for industrial processes and cooling.

The DRBC estimates that the project withdrawals, used for the purpose of industrial process and cooling, result in a consumptive use of thirty-eight percent (38%) of the total water use. The DRBC definition of consumptive use is defined in Article 5.5.1.D of the *Administrative Manual – Part III – Basin Regulations – Water Supply Charges*.

Section 2.3.5.1 C. of the Commission's *Rules of Practice and Procedure (RPP)*, requires industrial and commercial water withdrawals in excess of one million gallons per day to develop a contingency plan including emergency conservation measures to be instituted in the event of a Commission declared drought or other water shortage. Resolution No. 83-14 amended the Commission's *Water Code* (Section 2.1.4) to include the conservation goal of a 15 percent reduction in depletive use during drought conditions. Hereafter referred to as drought management and contingency plans (DMCPs), DMCPs must contain the following: source of water supply; the average daily and monthly peak water withdrawal; average daily and peak monthly consumptive use (difference between quantity withdrawn and quantity returned to the ground or surface waters of the basin); description of recycling and conservation measures; point of discharge (where water is returned or discharged); types of products produced; normal employment levels (numbers); and estimated employment (numbers) and economic impact for curtailment of water usage for the following levels of curtailment: 10%; 25%; 35%; 50% and 100%. The DMCP shall be submitted to the Commission within 6 months of the docket approval date (by September 6, 2013). The Executive Director shall review the DMCP and either require modifications or provide approval in writing if the DMCP is found to be in accordance with the Commission requirements. The docket holder shall implement the DMCP upon direction by the Executive Director. (see DECISION Condition I.h.).

The project does not conflict with the Comprehensive Plan and is designed to prevent substantial adverse impact on the water resources related environment, while sustaining the current and future water uses and development of the water resources of the Basin.

The project is designed to conform to the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

C. DECISION

I. Effective on the approval date for Docket No. D-2012-026-1 below, the project and the appurtenant facilities described in Section A “Physical Features” are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

a. The docket holder shall register with and report to the PADEP all surface water sources described in this docket in accordance with the Pennsylvania Regulations (Title 25 - Environmental Protection, [25 PA. CODE CH. 110], Water Resources Planning).

b. The intakes and operational records shall be available at all times for inspection by the DRBC.

c. The intakes shall be operated at all times to comply with the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

d. During any month, the combined withdrawal from all intakes shall not exceed 683.115 million gallons. No intake shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

INTAKE NO.	MAXIMUM INSTANTANEOUS RATE (MGD)	MONTHLY ALLOCATION (MILLION GALLONS)
PB	13.69	202.958
GP	21.60	480.157

e. The docket holder shall pay for surface water use in accordance with the provisions of Resolution No. 74-6, as amended.

f. The project withdrawals shall be metered with an automatic continuous recording device that measures to within 5 percent of actual flow. An exception to the 5 percent performance standard, but no greater than 10 percent, may be granted if maintenance of the 5 percent performance is not technically feasible or economically practicable. A record of daily withdrawals shall be maintained, and monthly totals shall be reported to the PADEP annually and shall be available at any time to the Commission if requested by the Executive Director.

g. The docket holder shall implement to the satisfaction of the PADEP, the continuous program to encourage water conservation in all types of use within the facilities served by this docket approval. The docket holder will report to the PADEP on the actions taken pursuant to this program and the impact of those actions as requested by the PADEP.

h. The docket holder shall prepare and submit a DMCP to the Commission within 6 months of docket approval (by September 6, 2013). The Executive Director shall review the DMCP and either require modifications or provide approval in writing if the DMCP is found to be in accordance with the Commission requirements. The docket holder shall implement the DMCP upon direction by the Executive Director.

i. Nothing herein shall be construed to exempt the docket holder from obtaining all necessary permits and/or approvals from other State, Federal or local government agencies having jurisdiction over this project.

j. The docket holder is permitted to provide the water approved in this docket to the areas included in Section A.3. Area Served of this docket. Any expansion beyond those included in Section A.3. Area Served is subject to DRBC review and approval in accordance with Section 3.8 of the *Compact*.

k. Unless an extension is requested and approved by the Commission in advance, in accordance with paragraph 11 of the Commission's Project Review Fee schedule (Resolution No. 2009-2), the docket holder is responsible for timely submittal of a docket renewal application on the appropriate DRBC application form at least 12 months in advance of the docket expiration date set forth below. The docket holder will be subject to late charges in the event of untimely submittal of its renewal application, whether or not DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. In the event that a timely and complete application for renewal has been submitted and the DRBC is unable, through no fault of the docket holder, to reissue the docket before the expiration date below (or the later date established by an extension that has been timely requested and approved), the terms and conditions of the current docket will remain fully effective and enforceable against the docket holder pending the grant or denial of the application for docket approval.

l. The issuance of this docket approval shall not create any private or proprietary rights in the water of the Basin, and the Commission reserves the rights to amend, alter or rescind any actions taken hereunder in order to insure the proper control, use and management of the water resources of the Basin.

m. If the monitoring required herein, or any other data or information demonstrates that the operation of this project significantly affects or interferes with any domestic or other existing uses of ground or surface water, or if the docket holder receives a complaint by any existing ground or surface water users within the zone of influence of the withdrawal, the docket holder shall immediately notify the Executive Director of any complaints by any ground or surface users within the zone of influence of the withdrawal, and unless excused by the Executive Director, shall investigate such complaints. The docket holder should direct phone call notifications of potential well or surface water interference or complaints of interference to the DRBC Project Review Section at 609-883-9500, extension 216. Oral notification must always be followed up in writing directed to the Executive Director. In addition, the docket holder shall provide written notification to all potentially impacted users of wells or surface water supplies of the docket holder's responsibilities under this condition. Any ground or surface water user which is substantially adversely affected, rendered dry or otherwise diminished as a result of the docket holder's project withdrawal, shall be repaired, replaced or otherwise mitigated at the expense of the docket holder. A report of investigation and/or mitigation plan prepared by a hydrologist shall be submitted to the Executive Director as soon as practicable. The Executive Director shall make the final determination regarding the validity of such complaints, the scope or sufficiency of such investigations, and the extent of appropriate mitigation measures, if required.

n. The Executive Director may modify or suspend this approval or any condition thereof, or require mitigating measures pending additional review, if in the Executive

Director's judgment such modification or suspension is required to protect the water resources of the Basin.

o. For the duration of any drought emergency declared by either Pennsylvania or the Commission, water service or use by the docket holder pursuant to this approval shall be subject to the prohibition of those nonessential uses specified by the Governor of Pennsylvania, the Pennsylvania Emergency Management Council, PADEP, or the Commonwealth Drought Coordinator to the extent that they may be applicable, and to any other emergency resolutions or orders adopted hereafter by the Commission.

p. Any person who objects to a docket decision by the Commission may request a hearing in accordance with Article 6 of the Rules of Practice and Procedure. In accordance with Section 15.1(p) of the Delaware River Basin Compact, cases and controversies arising under the Compact are reviewable in the United States district courts.

BY THE COMMISSION

APPROVAL DATE:

EXPIRATION DATE: March 6, 2023